

EXHIBIT C

John H. Raleigh
Chief Legal Officer



December 4, 2023

Mr. Richard D. Elmore
Chief Procurement Officer, Central Procurement
The Pennsylvania State University
101 Procurement Services Building
University Park, PA 16802-1004

Re: **Learfield Communications, LLC/Penn State Sports Properties, LLC**
("Learfield") Supplement to Protest

Dear Mr. Elmore:

As you are aware, on November 28, 2023, Learfield timely filed its Protest of the Notice of Award for Request for Proposal Solicitation for the Pennsylvania State University ("PSU" or "University") Intercollegiate Multi-Media Rights (the "RFP"). A true and correct copy of the Protest is attached here to as Exhibit A. Learfield now submits this supplement to the Protest and provides further detail regarding its previously submitted requests for documentation.

A. Learfield is Entitled to all Records Related to the RFP and to PSU's Evaluation of Proposals and Notice of Intent to Award.

It is well-settled that records pertaining to a public procurement must be maintained by the procuring agency and made available to the public, which certainly includes those suppliers who submitted a proposal in response to a solicitation. *See e.g.*, 62 Pa.C.S. § 106.1; 2 CFR 200.318-19. It is similarly well-settled that such records are critical to and required for the consideration and resolution of any protest or appeal related to the procurement. *See e.g.*, 2 Pa.C.S. § 101; 62 Pa. C.S. 1711.1. There is no question then that critical records related to the RFP exist, are in PSU's possession, and should immediately be made available to Learfield.

As previously noted in its Protest, Learfield is entitled to and has requested records related to the RFP and to PSU's consideration of proposals submitted in response to the RFP. In an effort to assist PSU in responding to Learfield's request and for the avoidance of any doubt, Learfield is hereby providing an enumerated list of all of the procurement records it seeks.

Learfield requests all public records relating to, or received or produced by or on behalf of PSU, its employees, or agents (including in the Office of the President and the

Athletic, Finance/Business and Procurement departments) in connection with the RFP including, but not limited to, the following regardless of the form of the record:¹

1. All submissions/proposals submitted by Respondents, as that term is used in the RFP, in response to the RFP.
2. All records establishing or relating to an evaluation plan for submissions/proposals submitted in response to the RFP, including but not limited to all documents which set forth or relate to the relative weight of factors or sections of the submissions/proposals.
3. All records establishing or demonstrating that the evaluation plan adopted by PSU prior to the receipt of submissions/proposals was followed in scoring all of Respondents' submissions/proposals.
4. All records indicating the individuals involved in evaluating the submissions/proposals and determining the intended awardee (the "Evaluation Committee"), and their respective roles.
5. All scoring-related records and documents, regardless of physical form, that were prepared or produced by or on behalf of PSU and/or any Evaluation Committee, including but not limited to, individual scoring sheets, summary scoring sheets, documentation evidencing interim and final scores, notes of members of the Evaluation Committee, and evaluation sheets.
6. All correspondence, memorandum, or recordings, regardless of physical form, received or produced by or on behalf of PSU and/or any Evaluation Committee relating to the RFP, the submissions/proposals received in response to the RFP, the evaluation of such submissions/proposals, and the intended awardee.
7. All communications between PSU employees/agents (including, but not limited to, Neeli Bendapudi, Meg Harpster, Richard Elmore, Sara Thorndike, Patrick Kraft, Vinnie James, Tom McGrath and Doug Fillis) and any of the Respondents (including, but not limited to, Playfly Sports, JMI Sports, Legends and Van Wagner) relating to the RFP, the submissions/proposals received in response to the RFP, the evaluation of such submissions/proposals, and the intended awardee.
8. All communications between and amongst members of the Evaluation Committee relating to the RFP, the submissions/proposals received in response to the RFP, the evaluation of such submissions/proposals, and the intended awardee.
9. All communications between and amongst PSU employees/agents (including, but not limited to, Neeli Bendapudi, Meg Harpster, Richard Elmore, Sara Thorndike, Patrick

¹ For purposes of this request, Learfield considers a public record to include documents, communications (including but not limited to emails, letters, calendar invites/entries, phone logs, etc.), papers, maps, books, tapes, photographs, films or sound recordings, information stored or maintained electronically and a data-processed or image-processed document in connection with this RFP.

Kraft, Vinnie James, Tom McGrath and Doug Fillis) relating to the RFP, the submissions/proposals received in response to the RFP, the evaluation of such submissions/proposals, and the intended awardee.

10. All communications between members of the Evaluation Committee and PSU employees/agents (including, but not limited to, Neeli Bendapudi, Meg Harpster, Richard Elmore, Sara Thorndike, Patrick Kraft, Vinnie James, Tom McGrath and Doug Fillis) relating to the RFP, the submissions/proposals received in response to the RFP, the evaluation of such submissions/proposals, and the intended awardee.
11. All communications between the Evaluation Committee and Respondents (including, but not limited to, Playfly Sports, JMI Sports, Legends and Van Wagner) relating to the RFP, the submissions/proposals received in response to the RFP, the evaluation of such submissions/proposals, and the intended awardee.

All such documents are critical to Learfield's Protest and will be relevant in discovery and material to any judicial appeal should this matter proceed to court. Further, while Learfield maintains that all such documents are public records, Learfield is willing to enter into a protective order or nondisclosure agreement to ensure that such records are used only for purposes of this Protest and any resulting court action.

B. Learfield Requests Confirmation of a Stay in the Procurement Pending Resolution of the Protest and Any Subsequent Appeal.

As noted in the Protest, Learfield maintains that PSU must immediately institute a complete stay of this procurement, which includes entering into or implementing a contract with Playfly Sports, or any other entity, resulting from this RFP. Such a stay of the award must remain in place pending resolution of the Protest and any subsequent appeal. Learfield hereby requests that PSU provide immediate written confirmation of the stay. In the absence of such confirmation, Learfield will be forced to seek a court-ordered injunction to ensure that its protest rights are meaningful and preserved.

Once again, Learfield values its relationship with PSU and is confident that its proposal provided the best value to PSU over the next ten years, guaranteeing over \$335 million in total dollars to the University, combined with Learfield's 20 years of unmatched service to PSU. We look forward to your commitment to provide the requested records and confirmation of a stay in the procurement, and further information regarding the process PSU intends to follow in order to resolve the Protest.

Sincerely,

John Raleigh

John H. Raleigh